

MAR 15 2006

EMPLOYER STATUS DETERMINATION

Blackwell Northern Gateway Railroad Company

This is the determination of the Railroad Retirement Board concerning the status of Blackwell Northern Gateway Railroad Company as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information regarding Blackwell was provided by Tammy Weart, Controller for Blackwell. According to Ms. Weart, Blackwell began doing business January 2, 2006. Blackwell currently has four employees.

In Surface Transportation Board Finance Docket No. 34777, Blackwell filed a notice of exemption to operate approximately 35 miles of rail line owned by the State of Oklahoma, with which it entered into a contract on December 9, 2005. The rail line interchanges with BNSF Railway. The rail line replaces Blackwell & Northern Railway Company, Inc., a covered employer under the Acts (B.A. No. 2889)¹.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code;

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain a substantially similar definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that Blackwell is a carrier operating in interstate commerce. Accordingly, it is determined that Blackwell is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of January 2, 2006, the date as of which it commenced operations.

Original signed by:

Beatrice Ezerski
FOR THE BOARD
Secretary to the Board

¹ Currently being looked into for possible termination of coverage.